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CONFIDENTIAL

FACSIMILE COVER SHEET

(Time Sensitive - Please Deliver Immediately)

Date: August 2, 2005

To: **Frances Han**

Fax No. - 571-273-0053

From: Ira Edell

Total Pages (incl. cover) - 10

re: **Application Serial No.: 10/039,338; Appeal No. 2003-1272**

Request for Extension of Time is attached.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appeal No. : 2003-1272
Appl. No. : 10/039,338
Applicant : Ernie L. Deacon et al.
Filed : October 29, 2001
Docket No. : 1332.0189C
Customer No. : 27896
Title : Golf Shoe Cleat



Hon. Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**TRANSMITTAL OF A REQUEST FOR EXTENSION OF TIME UNDER
37 CFR 1.136(B)**

Transmitted herewith for filing in the subject application are:

- ☒ Request For Extension Of Time Under 37 CFR 1.136(B); and
- ☒ Declaration of Paul D. Custead.

The Commissioner is hereby authorized to charge payment of any additional fees required for the above-identified application or Assignment or credit any overpayment to Deposit Account No. 05-0460.

Respectfully submitted,

Ira C. Edell
Registration No. 24,119

Faxed: August 2, 2005

Attorney Docket No. 1332.0189C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the PATENT application of

Ernie L. Deacon et al.

Serial No.: 10/039,338

Appeal No. 2003-1272

Filed: October 29, 2001

For: Golf Shoe Cleat

REQUEST FOR EXTENSION OF TIME UNDER 37 C.F.R. § 1.136(b)Hon. Assistant Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22312-1450Extension of Time
Granted/Refused

until 9/4/05

AUG. 4 2005

Sir:

Applicant requests a one-month extension of time ~~until September 12, 2005~~ ^{until 9/4/05} for responding to the decision of the BPAI mailed on June 2, 2005. The reasons for this request are stated below.

This request is further to the REQUEST FOR RE-MAILING DECISION filed by facsimile transmission on July 29, 2005. The subject matter of that paper and the attachments thereto are incorporated into this Request For Extension Of Time.

On August 2, 2005, I, the undersigned attorney of record, received a phone call from Ms. Frances Han advising me that the REQUEST FOR RE-MAILING DECISION was insufficient and that it would be necessary to submit evidence showing my firm's docketing information for all incoming mail received from the USPTO on June 3 through June 10, 2005, inclusive. Ms. Han indicated that a statement from the docketing clerk would also be required.

The electronic docketing system used by our firm, PC Master, does not provide the capability of reporting based on the date a paper is received; it can provide a list of response due dates for each attorney or for all attorneys, or by case number. Accordingly, it is not possible to provide the list requested by Ms. Han.

Deacon et al
Serial No. 10/039,338
August 2, 2005

The procedure in our firm is to place all papers received from the USPTO in the in box of our docketing clerk, Paul D. Custead. Mr. Custead enters each received paper into the docketing system for the relevant case, and then distributes the papers to the responsible attorney or that attorney's secretary. Mr. Custead's Declaration pertaining to his experience, responsibilities and the matter at issue is submitted herewith.

I personally have questioned all employees of this firm regarding whether or not they recall seeing the decision from the BPAI; none has seen it. The employees, upon learning that the decision contained 37 pages and was from the BPAI, expressed confidence that they would recall such a document if they had seen it.

In view of the circumstances I believe that the decision mailed on June 2, 2005 was not received at our firm, and that the one-month extension of time requested herein should be granted.

Applicant authorizes that all fees required to maintain the pendency of this case be charged to Deposit Account No. 05-0460.

Respectfully submitted,



Ira C. Edell
Registration No. 24,119

EDELL, SHAPIRO & FINNAN, LLC
1901 Research Boulevard, Suite 400
Rockville, Maryland 20850-3164
(301) 424-3640
Sent By Facsimile: August 2, 2005

Attorney Docket No. 1332.0189C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re the PATENT application of

Ernie L. Deacon et al.

Serial No.: 10/039,338

Appeal No. 2003-1272

Filed: October 29, 2001

For: Golf Shoe Cleat

Hon. Assistant Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22312-1450

DECLARATION OF PAUL D. CUSTEAD

I, Paul D. Custead, am currently, and for all times relevant to the facts stated herein have been, the docketing clerk for the firm Edell, Shapiro & Finnan, LLC, ("ESF") formerly known as Epstein, Edell, Shapiro, Finnan & Lytle, LLC, located at 1901 Research Boulevard, Suite 400, Rockville, Maryland 20850, and hereby state as follows.

1. I have been employed as the sole docketing clerk at ESF since July 9, 2001. I have also been employed as docketing clerk for other firms and have been performing docketing duties for patent and trademark applications filed in the USPTO for over twelve (12) years.
2. My primary duties at ESF include docketing of all matters before the USPTO including response dates for all office actions, USPTO Notices, BPAI and TTAB decisions, and all other incoming mail concerning U.S. patent and trademark applications, the recordation of all documents submitted to the USPTO including required government fees, and the receipt and delivery of all USPTO documents to the appropriate attorneys in the firm.

Deacon et al
Serial No. 10/039,338
August 2, 2005

3. It is the practice of ESF to place all incoming mail from the USPTO in my in box. It is my assigned duty to review all documents received from the USPTO, to enter relevant due dates that require a response into our computer system (we use the PC Master docketing software program) and then to have someone deliver such documents to the attorneys handling the respective matters. I am also responsible for providing each of the attorneys with monthly and weekly computer printouts for cases being handled by the individual attorneys.

4. The subject application has an assigned ESF docket number of 1332.0189C. For all times relevant to the facts stated herein I am the only person at ESF responsible for entering due dates for patent and trademark applications, including the subject application, in the docketing system. A copy of the entire docket list for that application is attached hereto as Exhibit A.

5. I have been advised by Ira Edell, the ESF attorney responsible for the subject application, that a 37-page decision of the BPAI in the subject application was mailed by the USPTO on June 2, 2005. It will be noted that there is no entry on the docket list for the subject application (Exhibit A) of that decision. Moreover, I have no recollection of ever seeing that decision. It should be noted that a decision from the BPAI at ESF would attract my attention in view of the fact that there have been very few (i.e., less than five) matters for ESF pending before the BPAI since I have been employed by ESF. Moreover, the length of the decision would itself have attracted my attention. I can therefore state with confidence that I have not seen the decision.

6. Based on my own review of the file and ESF's internal docketing records, and in light of the facts stated herein, I have found no evidence of ESF ever having received the decision mailed by the USPTO on June 2, 2005. I therefore conclude that, to the best of my knowledge and belief, the decision was not received from the USPTO.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to

Deacon et al
Serial No. 10/039,338
August 2, 2005

be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the U. S. Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: Aug. 2, 2005


Paul D. Custead